

**FILED**

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF TENNESSEE

NOV 22 2013

Clerk, U. S. District Court  
Eastern District of Tennessee  
At Chattanooga

Comcast of the South, )  
Plaintiff, )  
v. )  
Cincinnati Insurance Company )  
Defendant. )

DOCKET NO. 1:13-CV-390

*Judge Mattice/Carter*

**Notice of Removal to United States District Court**  
**for the Eastern District of Tennessee**

Comes the Cincinnati Insurance Company, by and through counsel, and would respectfully show the Court as follows:

1. Cincinnati hereby removes a coverage dispute filed against it by Comcast of the South (Comcast) in the Hamilton County Circuit Court, Chattanooga, Tennessee to the Eastern District of Tennessee at Chattanooga.
  
2. Jurisdiction is based on diversity of citizenship, 28 USC 1332(a)(1). The lawsuit involves parties who are residents of different states, and the amount in controversy exceeds \$75,000.
  
3. The Cincinnati Insurance Company is an Ohio corporation maintaining its chief place

of business at 6200 S. Gilmore Road, Fairfield, Ohio 45014-5141.

4. Comcast of the South, is a Colorado General Partnership which maintains its chief place of business at 1701 John F. Kennedy Blvd., Philadelphia, Pennsylvania 19103-2838. In this lawsuit, Comcast is represented by Mr. Jack Skelton, Mr. William R. Johnson, and Alexander T. Galloway of Moore, Ingram, Johnson, and Steele, 326 Roswell Street, Marietta, Georgia 30060. Mr. Skelton has advised the undersigned that Comcast is a Colorado General Partnership.

5. On July 23, 2012 a gentleman named Milton Brown sued Electric Power Board of Chattanooga and Comcast Cable Communications, LLC in the Circuit Court for Hamilton County, Tennessee, Docket No. 12-C872. A copy of that Complaint is attached and filed as Exhibit 1 hereto. In his Complaint Mr. Brown alleges that he was working as a lineman in Chattanooga when he received a serious electric shock and then fell to the ground, suffering injuries that ultimately resulted in amputation of a leg.

6. The style of the case reflected in Exhibit 1, shows the Defendant is Comcast Cable Communications, LLC. That was a misnomer, and the case was subsequently corrected to reflect that the Defendant was Comcast of the South.

7. Comcast subsequently filed a Third Party Complaint alleging that it was entitled to a defense and indemnity from a subcontractor, Gaddcom, Inc.

8. On July 30, 2013 Comcast also filed a Third Party Complaint against the Cincinnati

Insurance Company alleging that it was entitled to be treated as an additional insured under a policy of insurance issued by Cincinnati, and insuring Gaddcom. A copy of that Third Party Complaint is attached hereto and filed as Exhibit 2.

9. On July 30, 2013 Cincinnati filed an Answer to Comcast's Third Party Complaint. A copy is attached hereto and filed as Exhibit 3.

10. In addition, also on July 30, 2013, Cincinnati filed a Motion for Summary Judgment based on the fact that the insurance policy on which Comcast relies provides that Cincinnati may not be brought into an underlying personal injury case. In other words, the coverage and liability issues must be resolved in different law suits. A copy of the Motion for Summary Judgment is attached hereto as Exhibit 4, and a copy of the Memorandum Supporting the Motion for Summary Judgment is filed as Exhibit 5.

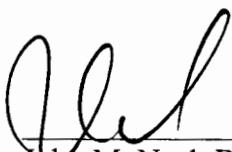
11. Comcast and Cincinnati were able to resolve the Motion for Summary Judgment by agreement. On October 24, 2013 the Circuit Court entered an Agreed Order Resolving the Motion for Summary Judgment by completely severing the coverage dispute from the bodily injury case. A copy of the Order is attached hereto as Exhibit 6. The Order specified that the coverage case be given its own docket number, but for procedural reasons the Circuit Court Clerk's office has advised that it is unable to create a separate docket number.

12. As a result of the severance, complete diversity of the parties was created in the coverage litigation. Thus, diversity jurisdiction was created on October 24, 2013. This Notice of

Removal is filed less than 30 days thereafter and is, therefore, timely filed.

13. For purposes of clarification, Cincinnati removes only the coverage dispute between itself and Comcast to the United States District Court. The personal injury case between Milton Brown and others remains in the Circuit Court of Hamilton County and is not affected by this removal.

Respectfully submitted this 21 day of November, 2013.

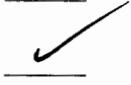


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#### **Certificate of Service**

The undersigned hereby certifies that a copy of the foregoing has been furnished to counsel of record in this cause by one of the following means, as checked, on the 21 day of November, 2013.

Personal Delivery



U.S. Mail, Postage Prepaid

Telecopier

Overnight Delivery Service

Jack Skelton  
William R. Johnson  
Alexander T. Galloway  
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John M. Neal